

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FAYETTEVILLE DIVISION

FRANCISCO JAVIER RODRIGUEZ

PETITIONER

v.

CIVIL NO. 14-5243

C. V. RIVERA, WARDEN

RESPONDENT

**MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Currently before the Court is Petitioner Francisco Javier Rodriguez's pro se Amended 28 U.S.C. § 2241 Petition (Doc. 4). The undersigned, being well and sufficiently advised, finds and recommends as follows with respect thereto:

Petitioner indicates that on July 7, 2008, he was sentenced in the United States District Court for the Central District of California. Petitioner is currently incarcerated in the Federal Correctional Institution in Forrest City, Arkansas. In the action now before the Court, Petitioner appears to be challenging the Bureau of Prisons' decision not to award him credit towards his federal sentence for time he spent in state custody.

After a prisoner exhausts his administrative remedies for seeking credit towards his sentence through the Bureau of Prisons, he may seek judicial review by filing a habeas petition under 28 U.S.C. § 2241. See United States v. Tindall, 455 F.3d 885, 888 (8<sup>th</sup> Cir. 2006). This Court is without jurisdiction over this matter, however, as a § 2241 petition must be filed in either the district where the prisoner is confined (the Eastern District of Arkansas), in the United States District Court for the District of Columbia, or in any district in which the BOP maintains a regional office. See United States v. Chappel, 208 F.3d 1069, 1070 (8<sup>th</sup> Cir. 2000). Rather than dismissing this action, the undersigned finds and recommends that, in the interests of justice, this action be transferred to the Eastern District of Arkansas pursuant to 28 U.S.C. § 1631.

**The parties have fourteen days from receipt of the report and recommendation in which to file written objections pursuant to 28 U.S.C. § 636(b)(1). The failure to file timely objections may result in waiver of the right to appeal questions of fact. The parties are reminded that objections must be both timely and specific to trigger de novo review by the district court.**

DATED this 3rd day of September, 2014.

*/s/ Erin L. Setser*

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HON. ERIN L. SETSER  
UNITED STATES MAGISTRATE JUDGE